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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

THE PEOPLE,

Plaintiff and Respondent,

v.

TIFFANY ANN HOLMES,

Defendant and Appellant.

C069492

(Super. Ct. No. SF115318A)

Appointed counsel for defendant Tiffany Ann Holmes asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) Our review of the record discloses that the trial court imposed a \$1,000 restitution fine and a \$200 parole revocation fine. Because the mandatory parole revocation fine must match the restitution fine, we will modify the judgment to provide for a \$1,000 parole revocation fine suspended unless parole is revoked. In all other respects we will affirm the judgment.

I

Defendant drove her vehicle the wrong way on State Route 99 and struck another vehicle head on, killing two people and injuring a third person. She had a blood alcohol content of .169 percent and a suspended driver's license.

Defendant pleaded guilty to two counts of second degree murder (Pen. Code, § 187; counts 1 and 2)¹ with the understanding that she would be sentenced to concurrent terms of 15 years to life in prison on each count. The trial court sentenced her consistent with the plea agreement, dismissed the remaining charges, and awarded 414 days of actual presentence custody credit. Among other things, the trial court orally imposed a \$1,000 restitution fine and a \$200 parole revocation fine stayed upon successful completion of parole. The trial court also ordered defendant to pay \$9,934.11 in victim restitution.

Defendant did not obtain a certificate of probable cause. (§ 1237.5.)

II

Appointed counsel filed an opening brief setting forth the facts of the case and asking this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing the opening brief. More than 30 days elapsed and we received no communication from defendant.

The trial court orally imposed a \$1,000 restitution fine and a \$200 parole revocation fine stayed upon successful completion of parole. In every case where the trial court imposes a restitution fine, a parole revocation fine is mandatory and must match the restitution fine. (§ 1202.45; *People v. Smith* (2001) 24 Cal.4th 849, 853.) The trial court's imposition of a parole revocation fine in an amount not matching the

¹ Undesignated statutory references are to the Penal Code.

restitution fine constitutes an unauthorized sentence, which may be corrected for the first time on appeal. (*Id.* at pp. 852-853; see also *People v. Terrell* (1999) 69 Cal.App.4th 1246, 1255-1256.) Accordingly, we will modify the judgment to provide for a \$1,000 parole revocation fine suspended unless parole is revoked.

Having undertaken an examination of the entire record, we find no other arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is modified to provide for a \$1,000 parole revocation fine suspended unless parole is revoked. In all other respects the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting the modified judgment and to forward a certified copy of the amended abstract of judgment to the California Department of Corrections and Rehabilitation.

MAURO, J.

We concur:

ROBIE, Acting P. J.

HOCH, J.